

Amendments to the Drawings:

The sheet of drawings attached in the Appendix includes changes to Fig. 1. This sheet replaces the original sheet.

Remarks:

Applicants have read and considered the Office Action dated February 8, 2007 and the references cited therein. Claims 1, 3, 4, 10 and 11 have been amended. New claim 12-14 have been added. Claims 1-14 are currently pending.

The abstract of the disclosure was objected to because of superfluous language. The abstract has been amended, and Applicants assert that the objected to language has been amended. Applicants request that the objection to the abstract be withdrawn.

The drawings filed on February 25, 2005 are informal. New formal drawings are enclosed herewith. Applicants assert that the drawings are in compliance with the United States Patent and Trademark Office requirements.

Claims 1-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kohlmann et al. in view of Miller. The Office Action states that the Kohlmann et al. reference discloses a water dispensing device having an "adjustable filling mechanism" 76 to adjust the nozzle 70 to the height of the container 75, but doesn't disclose having "identification means" to detect a vertical height of a container and to send out a height signal to a "control means" to control the filling of the container. The Office Action contends that the Miller reference discloses another liquid dispensing device having "identification means" to detect a "vertical height" of various sizes of containers and sends out a signal to control dispensing and filling of the container. The Office Action contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kohlmann et al. to have a vertical height detection means and control system as taught by Miller in order to further automate the device by detecting the vertical height of a receiving container and control the vertical adjustment on the dispensing nozzle. Applicants respectfully traverse the rejection.

Applicants note that the Kohlmann reference only relates to a water dispensing device. The Kohlmann reference in no way relates to collecting different dosable liquids that may have different filling needs. Water is simply dispensed in the Kohlmann device. Moreover, Kohlmann requires that the purified water be topped off with manual topping from an accumulator tank. Kohlmann is not suitable for use with multiple different liquids and containers that may have different optimal filling heights. Kohlmann does not require any sort of identification to associate a container with a particular liquid as it dispenses only water. Moreover, Kohlmann does not use both control means and identification means to fill various containers with various liquids. Although Miller uses a device for dispensing a liquid into a receptacle, it does not identify different liquids or move a spout. Miller relates to an optical detection method. However, Miller does not provide for dispensing more than one liquid from a particular spout or from as optimal height as the spout is stationary. Miller neither teaches nor suggests nor needs any sort of movement of the spout or use of selection for multiple different liquids to be programmed. Miller simply teaches a device that detects the height of the cup through a series of optical assemblies, and then simply dispenses the liquid. For multiple liquids, Miller and Kohlmann would each utilize multiple spouts rather than having a programmable filling mechanism to pre-define filling height.

Applicants assert that Kohlmann and Miller each teach a dedicated dispensing device for a single liquid. Although Kohlmann shows a movable dispensing spout, it is only used for filling with water, which has no special height requirements for filling, and has safety mechanisms including a slip clutch and manual topping off device. There is no need for identification means and control means recited in claim 1.

Moreover, although Miller does disclose identifying the height of a container, there is no need to adjust the height of a container, as it is used only for dispensing soft drinks, which do not need to vary in height as with other dosable liquids such as lattes, and/or cappuccinos, and other

drinks that may have multiple different dosable liquids. As Kohlmann and Miller are used for different purposes, and operate in substantially different ways, it would not be obvious to combine the fixed spout of Miller with a movable device of Kohlmann, where each is only used for a single liquid. Even if combined, the combination would not arrive at the present invention. Applicants assert that control means operating in response to the height adjustment signal to adjust the relative height of the filling mechanism is neither shown nor suggested by either reference. Moreover, such a device would not be obvious to one of ordinary skill at the time of the art at the time of the invention.

Applicants further assert that neither Kohlmann nor Miller teach or suggest the dispensing device recited in the dependent claims. Claim 2 recites that the control means is adapted to adjust the height of the filling mechanism into a waiting position once its height above the container is maximal after a filling procedure has been completed. There is no need in Miller for any sort of movement, as it is a stationary dispensing device. Applicants assert that Kohlmann and/or Miller neither teach nor suggest the combination of claim 2.

With regard to claim 3, which recites that the control means includes a memory and is adapted to store a plurality of filling heights in said memory, Applicants assert that Kohlmann has no memory means and Miller is stationary, and that the combination of Kohlmann with Miller still does not achieve the present invention as neither reference teaches nor suggests control means for moving an adjustable filling mechanism and identification means for storing a plurality of filling heights in the memory.

Claim 4 recites a plurality of filling heights for storage in association with data associated with a plurality of foodstuffs. Applicants assert that Kohlmann is directed only to water, while Miller discloses a dispensing device that appears to be dedicated to a single liquid such as soft drinks. The Kohlmann device is not suitable for use with multiple, different dosable foodstuffs.

The Miller device uses different spouts for different liquids. Therefore, neither device teaches nor suggests the dispensing device recited in claim 4. Moreover, as neither would have any sort of need for multiple foodstuffs, even the combination of the Kohlmann and Miller references still falls short of the present invention. Applicants therefore assert that claim 4 patentably distinguishes over the combination.

Claim 5 is believed to be allowable as it depends from claim 1. Moreover, Applicants assert that neither Miller nor Kohlmann teach or suggest the combination of claim 1 with the identification means including at least one filling state sensor that sets a maximum filling state for the container when the container is being filled with foodstuff. Similarly, Applicants assert that claim 6 relating to the programmable memory is neither shown nor suggested when combined with claim 1.

Claims 7 and 8 relating to the sensors are not believed to be shown or suggested when combined with the dispensing device of claim 1, which is believed to be allowable for the reasons discussed above.

Claim 9 recites that the identification means includes reading means to read information provided on the container. Applicants assert that this is neither shown nor suggested by Kohlmann and/or Miller or any combination thereof. Although Miller does teach light optical assemblies that detect the height of a cup, it is not capable of gathering any other information. Moreover, Kohlmann et al. completely lacks any sort of identification means. Applicants therefore assert that claim 9 patentably distinguishes over the combination or any other prior art or combination thereof.

Claim 10 recites learning means with manually actuatable adjustment means to adjust the position of the filling mechanism and to store a height signal associated with a particular

container. As discussed above, Kohlmann et al. fails to teach or suggest any sort of identification means or any sort of learning means capable of storing a signal. Miller relates only to a fixed spout, and has no need for adjusting the position of a filling mechanism. Applicants therefore assert that claim 10 is neither shown nor suggested by Kohlmann et al. and/or Miller or any combination thereof. Applicants assert that claim 10 patentably distinguishes over the combination, and the rejection should be withdrawn.

Claim 11 recites foodstuff-supply means defining an outlet wherein the filling mechanism comprises a container receptacle that is fixed in position and a movable dispensing region that is connected to said foodstuff-supply means such that a distance over which a foodstuff must pass on the way from the supply means to said outlet into the open air is independent of the height of the filling mechanism above the container receptacle. As discussed above, Miller discloses a fixed spout and would have no need for adjusting the height. Moreover, Kohlmann et al. relates only to a water dispensing device. Water does not require any sort of variable filling height such as may be utilized where foam is to be introduced into the dosable liquid. Applicants therefore assert that there is no need in either of the references to achieve the advantages of claim 11. Applicants assert that claim 11 provides advantages for dosing different types of liquids and at different heights that is not possible with the cited prior art or any combination thereof. Applicants therefore assert that claim 11 patentably distinguishes over the combination of cited prior art and request that the rejection be withdrawn.

New claim 12 recites a dispensing device for drinks or similar dosable liquid foodstuffs comprising an identifier adapted to detect a vertical height of a container for receiving the foodstuff and to send out a height signal, a filling mechanism for filling the container with the foodstuff and mounted such that its height is adjustable relative to the container, and a controller adapted to operate in response to the height signal to adjust the relative height of the filling mechanism to a predefined filling height with respect to said container, before said container is

filled with the foodstuff by the filling mechanism. Applicants assert that claim 12 is neither shown nor suggested by the prior art or any combination thereof. Applicants assert that claim 12 is allowable for at least the reasons discussed above with respect to claim 1.

Moreover, claim 13 recites the filling mechanism comprises a plurality of filling lines leading to a plurality of liquid foodstuffs. As discussed above, Kohlmann et al. and Miller each disclose filling mechanisms that are dedicated to a single liquid. Kohlmann et al. is used only for dispensing water. Miller has a dedicated stationary spout and uses multiple spouts, each dedicated to a different soft drink. Therefore, neither teaches nor suggests the movable filling mechanism that comprises a plurality of filling lines leading to a plurality of liquid foodstuffs. Applicants assert that claim 13 patentably distinguishes over the prior art and is in condition for allowance.

Similarly, claim 14 recites the filling mechanism comprises a plurality of filling lines leading to a plurality of liquid foodstuffs. Applicants assert that claim 14 is also allowable for at least the reasons discussed with respect to claim 13.

A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicants' representative at (612) 336-4728.



Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: _____

6/7/07

By: _____

A handwritten signature in dark ink, appearing to read "Gregory A. Sebold", written over a horizontal line.

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GAS/krm-sll